

Message Text

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INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 USIA-06
IO-13 OMB-01 /075 W
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R 171750Z MAR 78
FM AMEMBASSY MADRID
TO SECSTATE WASHDC PRIORITY 3906
INFO AMEMBASSY BONN
AMEMBASSY BRUSSELS
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BRUSSELS ALSO FOR USEEC

E.O. 11652: N.A.
TAGS: PINT, SP
SUBJECT: CONSTITUTIONAL SUBCOMMITTEE CONCLUDES WORK

REF: MADRID 77-9373

1. SUMMARY: THE CONSTITUTIONAL SUBCOMMITTEE, MINUS
BOYCOTTING PSOE MEMBER PECES-BARBA, ANNOUNCED MARCH 16
THE CONCLUSION OF ITS DRAFTING TASK. FULL COMMITTEE
CONSIDERATION OF THE DRAFT IS NOW EXPECTED TO BEGIN
ON OR SHORTLY AFTER APRIL 25. DEBATE ON SOME SECTIONS,
PARTICULARLY THOSE DEALING WITH REGIONAL AUTONOMY,
FREEDOM OF RELIGION, EDUCATION, THE EMPLOYER'S RIGHT
TO UTILIZE THE "LOCK-OUT," AND POWERS OF THE KING, WILL
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ALMOST CERTAINLY BE EXTENDED AND TOUGH. BUT THE VAST
MAJORITY OF THE DOCUMENT ALREADY ENJOYS CONSENSUS
SUPPORT AND THE WILL EXISTS TO BRIDGE DIFFERENCES ON THE
REST. THE SIX REMAINING SUBCOMMITTEE MEMBERS PUBLICLY
INVITED PECES-BARBA TO RETURN FOR THEIR FINAL READING
OF THE DRAFT ON APRIL 10. WHETHER HE DOES OR NOT, THE
PSOE HAS MADE CLEAR ITS INTENTION TO PARTICIPATE IN

COMMITTEE AND PLENARY CONSIDERATION TO THE DOCUMENT. END SUMMARY.

2. THE CONGRESS OF DEPUTIES' CONSTITUTIONAL SUBCOMMITTEE, MEETING THIS WEEK WITHOUT PSOE MEMBER PECES-BARBA (MADRID 2544), ANNOUNCED MARCH 16 THAT IT HAD CONCLUDED ITS CONSTITUTION-DRAFTING TASK. COMMUNIST (PSUC) MEMBER SOLE TURA, WHO HELD THE ROTATING CHAIRMANSHIP DURING THE LAST DAY'S SESSION, TOLD THE PRESS THAT THE SMOOTH SUBCOMMITTEE DRAFT, WITH APPENDED EXPLANATIONS, AMENDMENTS, RESERVATIONS AND "VOTOS PARTICULARES," SHOULD BE ASSEMBLED BY APRIL 5. THE SUBCOMMITTEE WOULD MEET FROM APRIL 5 TO APRIL 10 TO REVIEW AND SIGN THE DRAFT. IT WOULD THEN BE DISTRIBUTED TO THE MEMBERS OF THE FULL 36-MEMBER CONSTITUTIONAL COMMITTEE, WHO WOULD HAVE THE REQUIRED 15 DAYS TO STUDY THE DRAFT BEFORE FORMAL CONSIDERATION BEGAN ON OR SHORTLY AFTER APRIL 25.

3. IN HIS WRAP-UP STATEMENT, SOLE TURA IMPLICITLY RESPONDED TO PSOE ALLEGATIONS AND MEDIA BREAST-BEATING ABOUT THE "BROKEN CONSTITUTIONAL CONSENSUS" WHEN, SECONDED BY THE OTHER SIX MEMBERS, HE STATED THAT "CONSENSUS DOES NOT MEAN 100 AGREEMENT ON ALL POINTS; WHAT IT DOES MEAN IS THAT ALL HAVE WORKED TO PRODUCE A CONSTITUTION IN WHICH EACH OF US CAN FIND SOME OF OUR POSITIONS, A DOCUMENT WHICH WE CAN ALL SUPPORT, NOT A CONSTITUTION LIMITED OFFICIAL USE

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OF SOME AGAINST OTHERS." DESCRIBING THE DRAFT AS A "PROGRESSIVE-LIBERAL" DOCUMENT, THE SUBCOMMITTEE MEMBERS EXPRESSED CONFIDENCE THAT THEY HAD ACHIEVED JUST SUCH A CONSENSUS DRAFT. THEY MADE A POINT OF LAMENTING PECES-BARBA'S ABSENCE AND OF STATING THAT, EVEN IN HIS ABSENCE, HIS POINTS OF VIEW AND RESERVATIONS HAD BEEN TAKEN FULLY INTO CONSIDERATION AND WERE CLEARLY REFLECTED IN THE FINALLY AGREED WORDING.

4. ALTHOUGH ALL SIX MEMBERS ACKNOWLEDGED THE EXISTENCE OF DISAGREEMENTS (SEE BELOW), THEY ALSO EXPRESSED CONFIDENCE THAT SUCH DISCREPANCIES WERE BRIDGEABLE. "80 OF THE TEXT IS CONSENSUS TEXT," SAID AP MEMBER FRAGA, AND THE REST WILL HAVE TO BE DEBATED IN COMMITTEE AND ON THE FLOOR. OF THE MORE THAN 1,000 PROPOSED AMENDMENTS, HE CONTINUED, ALL BUT ABOUT 300 WERE EITHER NON-SUBSTANTIVE OR WERE SIMPLY REPETITIONS. OF THE 300 SUBSTANTIVE AMENDMENTS, SOME 100 HAD BEEN ACCEPTED AND INCORPORATED INTO THE DRAFT. THOSE WHICH WERE NOT ACCEPTED ALSO WOULD BE APPENDED TO THE DRAFT WHICH WENT TO COMMITTEE, TOGETHER WITH THE SUBCOMMITTEE'S REASONS FOR REJECTING THEM.

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-----031018 180631Z /16

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5. THE ARTICLES WHICH GENERATED MOST OF THE CONTROVERSY, PARTICULARLY THE OBJECTIONS OF THE PSOE, AS THE SUBCOMMITTEE WORKED ITS WAY DOWN THE HOME STRETCH WERE THOSE PERTAINING TO REGIONAL AUTONOMY, FREEDOM OF RELIGION, EDUCATION, RIGHTS OF EMPLOYERS, AND THE POWERS OF THE KING.

6. REGIONAL AUTONOMY (ARTICLE 2 AND 128-149). THE CONTROVERSIAL WORD "NATIONALITIES" HAS BEEN RETAINED IN ARTICLE 2, BUT TO COMPENSATE UCD HAS INTRODUCED INTO THE ARTICLE WORDING WHICH BEEFS UP ITS REFERENCES TO THE UNITY OF SPAIN. THE REVISED DRAFT NOW STATES: "THE CONSTITUTION IS BASED ON THE UNITY OF SPAIN AS THE COMMON AND INDIVISIBLE FATHERLAND OF ALL SPANIARDS AND RECOGNIZES THE RIGHT TO AUTONOMY OF THE NATIONALITIES AND REGIONS THAT INTEGRATE THE INDISSOLUBLE UNITY OF THE SPANISH NATION." CRITICISM OF THIS WORDING IS LIKELY TO COME FROM

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TWO SIDES, WITH AP MAINTAINING ITS OPPOSITION TO THE INCLUSION OF "NATIONALITIES" AND THE REGIONAL GROUPS AND SOCIALISTS EXPRESSING RESERVATIONS ABOUT THE NEW UNITY FORMULATION.

7. THE REVISED DRAFT ALSO SUBSTANTIALLY CHANGES THE PROVISIONS PERTAINING TO THE DEVOLUTION OF POWER TO THE REGIONS (ARTICLES 128-149). UNDER THE NEW WORDING, IF A REGION HAS HISTORICALLY ENJOYED SPECIAL AUTONOMY ARRANGEMENTS (AS IS THE CASE WITH THE BASQUE COUNTRY, CATALONIA AND GALICIA) OR IF IT OPTS FOR AUTONOMY BY A "QUALIFIED" (I.E., OVERWHELMING) MAJORITY (UNSPECIFIED), THE REGION MAY IMMEDIATELY ENJOY AS MUCH AUTONOMY AS IS AVAILABLE TO IT WITHIN THE FRAMEWORK ESTABLISHED BY THE CONSTITUTION. IF IT IS NEITHER AN "HISTORICAL" REGION NOR IS ABLE TO MUSTER THE OVERWHELMING MAJORITY IN FAVOR OF AUTONOMY, HOWEVER, THE REGION SEEKING AUTONOMY MUST EMBARK ON A FIVE-YEAR TRANSITION PERIOD DURING WHICH IT WOULD ENJOY ONLY SOME OF THE ATTRIBUTES OF AUTONOMY. AFTER THEN FULFILLING CERTAIN UNSPECIFIED REQUIREMENTS, THE REGION COULD EVENTUALLY ENJOY THE SAME LEVEL OF AUTONOMY AS THOSE REGIONS IN THE FIRST TWO CATEGORIES. (THIS WORDING IS NOT GOING TO GO DOWN WELL IN MANY QUARTERS, BUT IT REFLECTS THE GOVT'S SENSITIVITY TO CONCERNS, PARTICULARLY, BUT NOT EXCLUSIVELY, ON THE RIGHT AND IN THE MILITARY, ABOUT THE UNITY OF SPAIN.)

8. FREEDOM OF RELIGION (ARTICLE 16). WORDING EXPLICITLY RECOGNIZING "THE CATHOLIC CHURCH AND OTHER RELIGIOUS CONFESSIONS" HAS BEEN ADDED TO ARTICLE 16. THE SOCIALISTS AND COMMUNISTS CONTINUE TO OPPOSE ANY INCORPORATION OF SUCH AN EXPLICIT REFERENCE TO THE CATHOLIC CHURCH, AND THIS IS CERTAIN TO BE THE SUBJECT OF CONSIDERABLE DEBATE LIMITED OFFICIAL USE

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IN COMMITTEE.

9. EDUCATION (ARTICLE 28). IN SPITE OF EXPRESSED PSOE FEARS THAT UCD WOULD INSERT WORDING WHICH WOULD EXPLICITLY COMMIT THE STATE TO SUPPORT CHURCH SCHOOLS, THE FINAL DRAFT REMAINS ALMOST IDENTICAL TO THE ORIGINAL. THERE STILL IS LIKELY TO BE PSOE-INSTIGATED DEBATE, HOWEVER, OVER "DEMOCRATIZING" SPANISH EDUCATION.

10. EMPLOYER'S RIGHTS (ARTICLE 32.2). ARTICLE 32, SUBSECTION 2, HAS BEEN RETAINED, IN SPITE OF PSOE AND PCE OBJECTIONS. BY PROVIDING THAT EMPLOYERS HAVE "THE RIGHT TO ESTABLISH CONDITIONS OF EMPLOYMENT AND TO ADOPT MEASURES OF COLLECTIVE CONFLICT," THE ARTICLE IS INTERPRETED AS PROVIDING CONSTITUTIONAL BLESSING TO THE "LOCK-OUT."

THIS TOO IS LIKELY TO BE THE SOURCE OF CONSIDERABLE DEBATE
IN COMMITTEE.

11. POWERS OF THE KING (ARTICLE 97). THIS ARTICLE GIVES
THE KING THE POWER TO NAME THE PRIME MINISTER, AFTER
CONSULTING WITH PARTY LEADERS. THE CANDIDATE WOULD THEN
BE VOTED ON BY THE CONGRESS OF DEPUTIES, WHERE HE WOULD

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HAVE TO RECEIVE ABSOLUTE MAJORITY APPROVAL. IF AN
ABSOLUTE MAJORITY WAS NOT FORTHCOMING ON THE FIRST BALLOT,
ONLY A PLURALITY WOULD BE REQUIRED ON THE SECOND. THE
PSOE OF COURSE OPPOSES THE ESTABLISHMENT OF THE MONARCHY
AT ALL, BUT KNOWS IT WILL LOSE ON THE ISSUE. THE PSOE
IS JOINED BY THE PCE, HOWEVER, IN OPPOSING A ROLE SUCH AS
THIS FOR THE KING, INSISTING INSTEAD THAT THE PRIME
MINISTER BE ELECTED DIRECTLY BY THE CONGRESS OF DEPUTIES
WITHOUT ANY INTERVENTION BY THE MONARCH.

12. WITH THE COMPLETION OF THE SUBCOMMITTEE'S WORK, THE
SCENE NOW SHIFTS TO THE FULL CONSTITUTIONAL COMMITTEE,
WHERE THE PSOE HAS MADE CLEAR ITS INTENTION TO PARTICIPATE
FULLY WHETHER OR NOT PECES-BARBA RESPONDS TO AN INVITATION

TO PARTICIPATE IN THE SUBCOMMITTEE'S FINAL READING OF THE
DRAFT ON APRIL 10. DEBATE ON MANY SECTIONS OF THE
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EVEN THE MOST SENSITIVE,CONTROVERSIAL ARTICLES.
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Message Attributes

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